

AMENDED IN SENATE DECEMBER 17, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 732

Introduced by Senator Alquist

February 27, 2009

An act to ~~add Section 14126.024 to~~ amend Section 1324.23 of the Health and Safety Code, and to amend Section 14126.027 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, as amended, Alquist. Medi-Cal: ~~long-term care reimbursement; cost reporting methodology; skilled nursing facilities; quality assurance fees.~~

Existing law provides for the *licensure and regulation by the State Department of Public Health of long-term health care facilities, including skilled nursing facilities. Existing law requires the department to impose a uniform quality assurance fee on each skilled nursing facility, with certain exceptions, in accordance with a prescribed formula. The formula is based on the determination of the projected net revenues of skilled nursing facilities. The fee will cease to be assessed and collected on and after July 31, 2011.*

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services, including nursing facility services, are provided to qualified low-income persons. Existing law prescribes procedures for Medi-Cal reimbursement at these facilities.

~~The Medi-Cal Long-Term Care Reimbursement Act requires the department to implement a facility-specific ratesetting system, subject to federal approval and the availability of federal funds, that uses a~~

~~cost-based reimbursement rate methodology that reflects the costs and staffing levels associated with quality of care for residents in skilled nursing facilities, except as specified. Under existing law, the methodology is required to reflect the sum of the projected cost of specified cost categories and passthrough costs. Under existing law, the rate methodology shall cease to be implemented on and after July 31, 2011.~~

~~This bill would require the department, in consultation with the Office of Statewide Health Planning and Development, by July 1, 2010, to establish a cost reporting methodology that allows the department to adjust rates in a manner that is expedient and achieves the intent of the Medi-Cal Long-Term Care Reimbursement Act. This bill would require the cost reporting methodology to itemize costs, including passthrough costs, within each of the specified cost categories. This bill would authorize the department, in establishing the cost reporting methodology, to update and modify existing cost reporting mechanisms, as specified.~~

Existing law, the Medi-Cal Long-Term Care Reimbursement Act, requires the department, subject to federal approval and the availability of federal funds, to implement a facility-specific reimbursement ratesetting system for certain freestanding skilled nursing facilities. Reimbursement rates for these facilities are funded by a combination of federal funds and moneys collected pursuant to the above-described uniform quality assurance fee. Existing law provides that this rate methodology shall cease to be implemented on July 31, 2011, with these provisions to be repealed on January 1, 2012.

Existing law authorizes the director to adopt regulations as are necessary to implement the above-described provisions. Existing law authorizes the director, as an alternative to adopting regulations, to implement the above-described provisions, in whole or in part, by means of a provider bulletin, or other similar instructions, without taking regulatory action, provided that neither the bulletin nor the other similar instructions remain in effect after July 31, 2010.

This bill would, instead, prohibit the provider bulletins or other similar instructions from remaining in effect after July 31, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1324.23 of the Health and Safety Code*
2 *is amended to read:*

3 1324.23. (a) The Director of Health Care Services, or his or
4 her designee, shall administer this article.

5 (b) The director may adopt regulations as are necessary to
6 implement this article. These regulations may be adopted as
7 emergency regulations in accordance with the rulemaking
8 provisions of the Administrative Procedure Act (Chapter 3.5
9 (commencing with Section 11340) of Part 1 of Division 3 of Title
10 2 of the Government Code). For purposes of this article, the
11 adoption of regulations shall be deemed an emergency and
12 necessary for the immediate preservation of the public peace, health
13 and safety, or general welfare. The regulations shall include, but
14 need not be limited to, any regulations necessary for any of the
15 following purposes:

16 (1) The administration of this article, including the proper
17 imposition and collection of the quality assurance fee not to exceed
18 amounts reasonably necessary for purposes of this article.

19 (2) The development of any forms necessary to obtain required
20 information from facilities subject to the quality assurance fee.

21 (3) To provide details, definitions, formulas, and other
22 requirements.

23 (c) As an alternative to subdivision (b), and notwithstanding
24 the rulemaking provisions of Chapter 3.5 (commencing with
25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
26 Code, the director may implement this article, in whole or in part,
27 by means of a provider bulletin, or other similar instructions,
28 without taking regulatory action, provided that no such bulletin or
29 other similar instructions shall remain in effect after July 31, ~~2010~~
30 2011. It is the intent of the Legislature that the regulations adopted
31 pursuant to subdivision (b) shall be adopted on or before July 31,
32 ~~2010~~ 2011.

33 *SEC. 2. Section 14126.027 of the Welfare and Institutions Code*
34 *is amended to read:*

35 14126.027. (a) (1) The Director of Health Care Services, or
36 his or her designee, shall administer this article.

37 (2) The regulations and other similar instructions adopted
38 pursuant to this article shall be developed in consultation with

1 representatives of the long-term care industry, organized labor,
2 seniors, and consumers.

3 (b) (1) The director may adopt regulations as are necessary to
4 implement this article. The adoption, amendment, repeal, or
5 readoption of a regulation authorized by this section is deemed to
6 be necessary for the immediate preservation of the public peace,
7 health and safety, or general welfare, for purposes of Sections
8 11346.1 and 11349.6 of the Government Code, and the department
9 is hereby exempted from the requirement that it describe specific
10 facts showing the need for immediate action.

11 (2) The regulations adopted pursuant to this section may include,
12 but need not be limited to, any regulations necessary for any of
13 the following purposes:

14 (A) The administration of this article, including the specific
15 analytical process for the proper determination of long-term care
16 rates.

17 (B) The development of any forms necessary to obtain required
18 cost data and other information from facilities subject to the
19 ratesetting methodology.

20 (C) To provide details, definitions, formulas, and other
21 requirements.

22 (c) As an alternative to the adoption of regulations pursuant to
23 subdivision (b), and notwithstanding Chapter 3.5 (commencing
24 with Section 11340) of Part 1 of Division 3 of Title 2 of the
25 Government Code, the director may implement this article, in
26 whole or in part, by means of a provider bulletin or other similar
27 instructions, without taking regulatory action, provided that no
28 such bulletin or other similar instructions shall remain in effect
29 after July 31, ~~2010~~ 2011. It is the intent that regulations adopted
30 pursuant to subdivision (b) shall be in place on or before July 31,
31 ~~2010~~ 2011.

32 ~~SECTION 1. Section 14126.024 is added to the Welfare and~~
33 ~~Institutions Code, to read:~~

34 ~~14126.024. (a) The department, in consultation with the Office~~
35 ~~of Statewide Health Planning and Development, shall, by July 1,~~
36 ~~2010, establish a cost reporting methodology that allows the~~
37 ~~department to adjust rates in a manner that is expedient and~~
38 ~~achieves the intent of this article.~~

39 ~~(b) The cost reporting methodology shall itemize costs, including~~
40 ~~passthrough costs, within each cost category specified in Section~~

1 ~~14126.023. The department shall consult with representatives of~~
2 ~~skilled nursing facilities, labor, and consumers when it determines~~
3 ~~what costs shall be itemized.~~

4 ~~(e) The department shall continue to collect the cost data~~
5 ~~reported prior to July 1, 2010, in the new cost reporting~~
6 ~~methodology.~~

7 ~~(d) In establishing the cost reporting methodology, the~~
8 ~~department may update and modify existing cost reporting~~
9 ~~mechanisms, including the integrated long-term care disclosure,~~
10 ~~the Medi-Cal cost report required by Section 128730 of the Health~~
11 ~~and Safety Code, and any facility financial disclosure reports or~~
12 ~~supplemental information provided to the department for the~~
13 ~~purposes of rate adjustment.~~